

Permit Number: GP-52

Effective Date: June 2, 2002

Expiration Date: June 2, 2007

Name of Applicant: General Public, State of New Hampshire

Department of the Army State of New Hampshire Programmatic General Permit

The New England Division of the U.S. Army Corps of Engineers (Corps) hereby issues a programmatic general permit in the State of New Hampshire.

The purpose of the New Hampshire Programmatic General Permit (NH PGP) is to minimize duplication between New Hampshire's Regulatory Program governing work within coastal and inland waters and wetlands and the Corps regulatory program under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, while maintaining the environmental protections guaranteed by those Acts.

Subject to certain exclusions and conditions, the general permit eliminates the need for applying for separate approval from the Corps for most minor, non-controversial work in New Hampshire when that work is authorized by the New Hampshire Wetlands Bureau.

Activities covered by this general permit include minor work and structures that are located in, or that affect, navigable waters of the United States (regulated by the Corps under Section 10 of the Rivers and Harbors Act of 1899), as well as the discharge of dredged or fill material into waters of the United States (regulated by the Corps under Section 404 of the Clean Water Act).

Activities already exempt from Corps jurisdiction are not affected by this general permit.

Procedures

The Corps will review projects according to the State of New Hampshire classification of Minimum, Minor and Major impact projects as per the State of New Hampshire Wetland Rules Part WT 100 - 700, published March 9, 2001. Projects with impacts up to 3 acres may be considered under the NH PGP. For projects falling under any of the screening categories, applicants should send two copies of their State application package to New Hampshire and label one of those copies "Corps of Engineers" to facilitate the review process. Any project impacting over 3 acres must be reviewed under the individual permit review procedures.

Special Aquatic Sites: Salt Marshes, Mud Flats and Vegetated Shallows

Projects proposing work in salt marshes, mud flats, or vegetated shallows with dredging or permanent fill require an individual permit from the Corps. Activities at these sites involving structures over salt marshes or temporary fill require reporting to and screening (see Minor and Major category definitions below) by the Corps and Federal resource agencies (Environmental Protection Agency, Fish and Wildlife Service and National Marine Fisheries Service).

Proactive salt marsh restoration projects up to 3 acres in size, with the purpose of restoring or enhancing the natural functions and values of a wetland, may be reviewed under the NH PGP with screening. Applicants for these proactive projects may not proceed without written confirmation from the Corps.

Waters of the U.S. that Function as Vernal Pools

Projects in Waters of the U.S. that function as vernal pools require reporting to and screening (see Minor and Major category definitions below) by the Corps and Federal resource agencies. Vernal pools are often temporary bodies of water occurring in shallow depressions that fill during spring rains and snow melts and typically dry up during the summer. Vernal pools support populations of specialized species which may include wood frogs, mole salamanders (Ambystoma), fairy shrimp, fingernail clams and other invertebrates. A feature common to vernal pools is the lack of breeding populations of fish.

State of New Hampshire Project Categories

Proposals for work in New Hampshire that are subject to Corps jurisdiction that:

- .meet the definitions of a State of New Hampshire **Minimum Impact Project;**
- .**impact less than 3,000 s.f. of inland waterways and/or wetlands including secondary impacts;**
- .receive approval from the NH Wetlands Bureau;
- .receive all required Federal and non-federal permits and/or licenses; and
- .meet all of this permit's conditions, including avoidance and minimization (pp 7-13);
- .represent a single and complete project as defined by the Corps;
- may proceed upon authorization from the New Hampshire Wetlands Bureau without waiting for authorization from the Corps.**

NOTE: For the purposes of the NH PGP, Minimum Impact Projects **do not** include: work in Special Aquatic Sites or Waters of the U.S. that function as vernal pools, dams, dikes, water withdrawal or diversion projects requiring fills, wetland restoration projects, or any projects which involve in-stream work in other than low flow conditions (July 1 - September 30); or any projects involving more than 3,000 s.f. of a waterbody or wetland fill and secondary impacts. Also, **not** included under Minimum Impact Projects are those projects that include the reconstruction or replacement of currently unserviceable structures/fills. These projects must be reviewed through the screening procedures for Minor Impact Projects.

The activities in **Section 10 waters** not regulated by the Wetlands Bureau, formerly authorized under the Nationwide Permit Program and listed in **Appendix A** of this document are designated non-reporting activities.

Proposals for work in New Hampshire subject to Corps jurisdiction that:

- .meet the definitions of a State of New Hampshire

Minor Impact Project;

- .have received approval from the NH Wetlands Bureau;

- .have been screened by the Corps and the Federal agencies;

- .have received all other necessary required Federal, state and local permits and/or licenses;

- .meet all of this permit's conditions, including avoidance and minimization (pp. 7-13);

may proceed after 30 days from the date of the Wetland Bureau authorization unless the applicant receives written notification from the Corps either requesting additional information or requiring modifications to the proposal, or requiring an individual permit for the project.

Proposals for work in New Hampshire subject to Corps jurisdiction that:

- .meet the definitions of a State of New Hampshire **Major Impact**

Project and involve less than 3 acres of waterway and/or wetland fill including secondary impacts;

- .have received approval from the NH Wetlands Bureau;

- .have been screened by the Corps and the Federal agencies;

- .have received all other necessary required Federal, state and local permits and/or licenses;

- .meet all of this permit's conditions, including avoidance and minimization (pp. 7-13);

may proceed upon receipt of written authorization from the Corps. The Corps will notify the applicant within 30 days of the date of their Wetlands Bureau permit of either authorization under the NH PGP, the need for additional information or the need for an individual permit review.

In accordance with regional environmental concerns, **most proposals for work which involve impacts over 1 acre will require an individual permit application and review.** However, the Corps has set an absolute limit on the PGP at 3 acres of wetland impact. The Corps will consider only minimal impact projects under this PGP.

Generally, the following types of impacts may be viewed as minimal and are therefore eligible for the PGP (subject to agency screening and Corps approval) for projects impacting between 1 and 3 acres of wetlands:

- widening and expansions
- edge effects and/or wetland crossings to access usable uplands
- small pocket wetlands scattered over a site
- low or degraded wetland fills

Review Procedure

The Corps will review weekly, if practicable, the projects approved by the Bureau. The Corps will coordinate these projects with the Federal agencies with resources of concern.

The Federal agencies will review the applications and, **within 10 working days** from receipt, express verbally any objections they have to the issuance of a NH PGP for the particular projects. The verbal objection must be within the agencies' area of expertise but does not need to be fully documented. **The verbal objection shall be followed within an additional 10 working days by a written response, signed by the Federal agency Field Supervisor or Branch Chief (as appropriate).** The written objection shall document the resource or species, within their area of expertise that could be impacted by the project and describe the impacts that either individually or cumulatively will be more than minimal.

The Corps will require an **individual permit** review if any of the agencies expresses and identifies a concern related to the aquatic environment within their area of expertise and requests an individual permit review according to the procedures above. Upon receipt of an agency's written request for individual permit, but within 30 days from the Wetland Bureau approval, the Corps will notify the applicant in writing of the agency concerns and require an individual permit application. If, at a later date, the applicant is able to modify the proposal to address the agency(ies) concerns, the project may then be found to qualify for the NH PGP.

If the project qualifies for the NH PGP and there is no agency concern, no further contact with the Corps is necessary. **For Minor Impact Projects**, applicants may proceed after the 30 day waiting period.

For Major Impact Projects, the applicant must wait for written authorization from the Corps. If an applicant for a Major Impact Project does not hear from the Corps within the 30 day waiting period, the applicant should call the Corps. To proceed with a Major Impact Project without written authorization, is a violation of this permit and the applicant may be subjected to an enforcement action by the Corps of Engineers.

In accordance with **Condition 4** of the NH PGP, the Corps reserves the right to take discretionary authority on any project, regardless of impact category, which the Corps determines will have more than minimal environmental impact, or based on a concern for any other factor of the public interest.

Major and Minor Impact Projects: Emergency Situations

Emergency situations are limited to sudden, unexpected occurrences that could potentially result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process an application under standard procedures.

If an emergency situation requires action in less than 30 days after the occurrence, it qualifies for the amended notification procedures described below. The Corps will make this determination.

Notification Procedures for Emergency Situations: The Federal resource agencies, New Hampshire Department of Environmental Services (NHDES), New Hampshire Historic Preservation Officer and the New Hampshire Natural Heritage Inventory will each designate an alternate contact for the Corps in the event the regular contact is unavailable. The NHDES, New Hampshire Governor's Office of Emergency Management or the Federal Emergency Management Agency (FEMA) will notify the Corps within 24 hours of the occurrence of a disaster and advise the Corps of the nature of the occurrence and any known remedial and/or protective measures required.

If the Chief, Permits and Enforcement Section C of the Corps, or a person designated by him/her determines that an emergency situation exists, the Corps staff will notify agency representatives that a disaster has occurred within one working day of being notified by NHDES or the Federal or state emergency management agencies. When an application for Major or Minor Category work is received that the Corps determines is an "emergency," as defined above, the Corps will fax a copy of the plans and of the Corps Determination of Eligibility (DOE) to the agency representatives and their alternates. The resource agencies will then have two working days to notify the Corps if they have any comments on authorization of the project under the GP.

Objections to the Corp's determination of an "emergency" situation will not be accepted. If no response is received within two working days, the Corps will proceed with a decision on the application. If the resource agencies have comments on the proposal, they will have two working days to put their comments in writing. If written comments from the Federal agencies are not received within two working days, the Corps will proceed with a decision on the application.

If a Federal agency requests that an individual permit be required for a project or requests modifications to the project based on concerns within their area(s) of expertise, the Corps will notify the applicant within one working day of receipt of that request that the project as proposed does not qualify for authorization under the NH PGP and that an individual permit will be required. The Corps will consider using the expedited emergency permit procedures for the individual permit. In any event, the Corps will notify the applicant within six working days of commencement of the screening process as to whether the project may proceed under the NH PGP.

Individual Permit

Work that does not meet the terms and conditions of this PGP, will require an application for an individual permit from the Corps of Engineers (see 33 CFR Part 325.1). Applications and supporting materials for work that is clearly in the Individual Permit category should be submitted directly to the Corps as early as possible in order to expedite the permit review process.

Applications for work within the Corps jurisdiction which are obviously ineligible for authorization under the NH PGP (See conditions pages 7-13) should be sent directly to the Corps. **Waiting for a Corps determination regarding qualification for the NH PGP in these cases will unnecessarily delay the review process.** All projects which involve wetlands impacts over 3 acres are excluded from the NH PGP. If there is any doubt about a project's eligibility for the NH PGP, an applicant should contact the Corps for input as early in the process as practicable. General information and application forms can be obtained by calling the Corps New England District at 1-800-343-4789 or 1-800-362-4367 (within Massachusetts). Individual WQC and/or CZM consistency concurrence are required for individual permit applications. Additionally, filing an individual permit application does not relieve the applicant from the obligation to obtain all necessary state approvals.

Construction of Solid Fill Structures and Fills Along the Coastline or Baseline From Which the Territorial Sea is Measured

Projects with construction of solid fill structures or discharge of fill that may extend beyond the coastline or the baseline from which the territorial sea is measured (i.e., mean low water), must be coordinated with MMS, Outer Continental Shelf (OCS) Survey group, pursuant to the Submerged Lands Act (43 U.S.C. Section 1301-1315, 33 CFR 320.4(f)). The Corps will forward project information to MMS for their review. MMS will coordinate their determination with the Department of the Interior (DOI) Solicitor's Office. The DOI will have 15 calendar days from the date MMS received the project information to determine if the baseline will be affected. If the Corps is not notified within the 15 day period it will assume a "no effect" determination. If the solicitor's notification to the Corps is verbal, it must be followed with a written confirmation within 10 business days of the date of the verbal notification. This procedure will be eliminated if the State of New Hampshire provides a written waiver of interest in any increase in submerged lands caused by a change in the baseline resulting from solid fill structures or fills authorized under this General Permit.

Programmatic General Permit Conditions

The following conditions apply to activities authorized under this PGP.

GENERAL REQUIREMENTS:

1. Other Permits. Authorization under this general permit does not obviate the need to obtain other Federal, state, or local authorizations required by law or to comply with all Federal, State of New Hampshire, or local laws.

2. Applicability of this PGP shall be evaluated with reference to Federal jurisdictional boundaries using the 1987 Corps of Engineers Wetland Delineation Manual and subsequent Federal Guidance. Applicants are responsible for ensuring that the boundaries used satisfy the Federal criteria defined at Title 33 CFR 328-329.

3. Minimal Effects. Projects authorized by this general permit shall have minimal individual and cumulative adverse environmental impacts as determined by the Corps.

4. Discretionary Authority. Notwithstanding compliance with the terms and conditions of this permit, the Corps of Engineers retains discretionary authority to require an application for an individual permit for any project based on concerns for the aquatic environment or for any other factor of the public interest. This authority is invoked on a case-by-case basis whenever the Corps determines that the potential consequences of the proposed activity warrant an individual permit review based on the concerns stated above. This authority may be invoked for projects with cumulative environmental impacts that are more than minimal, or if there is a special resource or concern associated with a particular project that is not already covered by the remaining conditions of the PGP. Whenever the Corps notifies an applicant that an individual permit may be required, authorization under this PGP is void, and no work may be conducted until the individual Corps permit is obtained, or until the Corps notifies the applicant that further review has demonstrated that the work may proceed under this PGP.

5. Single and Complete Projects. This PGP shall not be used for piecemeal work and shall be applied to single and complete projects. All components of a single project shall be treated together as constituting one single and complete project and/or all planned phases of multi-phased project although it can be used to permit a single phase of a project in which only one phase will be constructed in the life of the permit (5 Years) or for those projects which have “stand alone” aspects. This does not apply to linear projects, such as power lines, roadways or pipelines, etc., with multiple, separate, and distinct waterway or wetland crossings, where each crossing may be reviewed for authorization under the Minimal project category. If any crossing requires a Minor or Major permit, then the entire linear project shall be reviewed as one project under one of those

categories. This PGP shall not be used for any activity that is part of an overall project for which an individual permit is required.

6. This PGP shall not alter Corps review procedures for the work noted below, which will require review under the individual permit process.

- Projects involving moorings within the horizontal limits, or with moored vessels that extend within the limits, of a Corps Federal Navigation project.
- Any structure, pier or float that extends, or with docked or moored vessels that extend, within the horizontal limits of a Corps Federal Navigation Project.

NATIONAL CONCERNS:

7. Historic Properties. Any activity authorized by this PGP shall comply with Section 106 of the National Historic Preservation Act. Information on the location and existence of historic resources can be obtained from the New Hampshire Historic Preservation Office and the National Register of Historic Places.

Applicants with Minor or Major Impact Projects which will undergo the screening process, shall submit a copy of their application materials to the New Hampshire State Historic Preservation Officer (SHPO; address on page 17 of this document) to be reviewed for the presence of historic/archaeological resources in the permit area that may be affected by the proposed work. SHPO will notify the Corps if there are State concerns that the proposed work will have an effect on historic resources. The applicant should include with their State application, either a copy of their cover letter, or a statement of having sent their application materials to the SHPO. If the permittee, during construction of work authorized herein, encounters a previously unidentified archaeological or other cultural resource within the area subject to Corps jurisdiction that might be eligible for listing in the National Register of Historic Places, he/she shall stop work and immediately notify the District Engineer and the SHPO.

8. National Lands. Activities authorized by this PGP shall not impinge upon the value of any National Wildlife Refuge, National Forest, National Estuarine Research Preserves, or any other area administered by the U.S. Fish and Wildlife Service, U.S. Forest Service, or National Park Service.

9. Endangered Species. No activity is authorized under this PGP which may affect a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA); or which is likely to destroy or adversely modify the critical habitat of such species; or which would result in a "take" of any threatened or endangered

species of fish or wildlife, or which would result in any other violation of Section 9 of the ESA protecting threatened or endangered species of plants. Applicants shall notify the Corps if any listed species or critical habitat is in the vicinity of the project and shall not begin work until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized. Information on the location of threatened and endangered species and their critical habitat can be obtained from the U.S. Fish and Wildlife Service and National Marine Fisheries Service (addresses on page 16 of this document). If consultation with the FWS or NMFS results in project modifications or permit conditions which resolve the issue, the Corps may issue a PGP.

10. Essential Fish Habitat. As part of the PGP screening process, the Corps will coordinate with the National Marine fisheries Service (NMFS) in accordance with the 1996 amendments to the Magnuson-Stevens Fishery and Conservation Management Act to protect and conserve the habitat of marine, estuarine and anadromous finfish, mollusks, and crustaceans. This habitat is termed “essential fish habitat (EFH)”, and is broadly defined to include “those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.” Applicants may be required to describe and identify potential impacts to EFH based upon the location of the project, the activity proposed, and the species present. Conservation recommendations made by NMFS will normally be included as a permit requirement by the Corps. EFH is designated in most of New Hampshire’s coastal waters, estuaries, and rivers. Information on the location of EFH can be found at the NMFS website: www.nmfs.gov/ro/doc/appguide.html. Additionally, a [reference guide to the EFH rivers for Atlantic Salmon](#) is attached.

11. Wild and Scenic Rivers. Any activity that occurs in a component of, or within 0.25 miles up or downstream of the main stem or tributaries of a river segment of the National Wild and Scenic River System, must be reviewed by the Corps under the screening procedures of this PGP. This condition applies to both designated Wild and Scenic Rivers and rivers designated by Congress as Study Rivers for possible inclusion while such rivers are in an official study status. Currently, Wildcat Brook from its headwaters to the confluence with the Ellis River and the Lamprey River from the West Epping Dam to the confluence with the Piscassic River are designated as Wild and Scenic Rivers in the State of New Hampshire.

12. Navigable Waters (Section 10). Includes all tidal waters and their tributaries to the head of tide; Merrimack River from the Massachusetts-New Hampshire State line to Concord; Lake Umbagog within the State of New Hampshire; Connecticut River to Pittsburg, New Hampshire.

13. Federal Navigation Project. Any structure or work that extends closer to the horizontal limits of any Corps navigation project than a distance of three times the project's authorized depth ([see attached map](#) for locations of these projects) shall be reviewed under the screening procedures and shall be subject

to removal at the owner's expense prior to any future Corps dredging or the performance of periodic hydrographic surveys.

14. Navigation. There shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein, and no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized herein. This includes activities listed in Appendix A.

MINIMIZATION OF ENVIRONMENTAL IMPACTS:

15. Minimization. Discharges of dredged or fill material into waters of the United States shall be avoided and minimized to the maximum extent practicable.

16. Work in Wetlands. Heavy equipment working in wetlands shall be avoided if possible. If such work is unavoidable, when site conditions are such that rutting, soil compaction, erosion or other disturbance would result, equipment shall be placed on mats or other measures taken such as delaying work until frozen or dry ground conditions exist, to minimize adverse effects to soil and vegetation. Disturbed areas in wetlands shall be restored to preconstruction contours and conditions upon completion of the work.

17. Temporary Fill. Temporary fill in waters and wetlands authorized by this PGP (e.g. access roads, cofferdams) shall be properly stabilized during use to prevent erosion. In addition, temporary fill in tidal, navigable or inland waters of the U.S. should consist of a material that minimizes impacts to water quality (e.g. sandbags or clean, gravel and/or stone). Temporary fill in wetlands shall be placed on geotextile fabric which is laid on the existing wetland grade. Temporary fills shall be disposed of at an upland site and suitably contained to prevent erosion and/or transport to a waterway or wetland. All areas of temporary fill shall be restored to their original elevations.

18. Sedimentation and Erosion Control. Adequate sedimentation and erosion control management measures, practices and devices, such as phased construction, vegetated filter strips, geotextile silt fences or other devices, shall be installed and properly maintained to reduce erosion and retain sediment on-site during and after construction. They shall be capable of preventing erosion, of collecting sediment, suspended and floating materials, and of filtering fine sediment. These devices shall be removed upon completion of work and the disturbed areas shall be stabilized. The sediment collected by these devices shall be removed and placed at an upland location, in a manner that will prevent its later erosion into a waterway or wetland. All exposed soil and other fills shall be permanently stabilized at the earliest practicable date.

19. Waterway/Wetland Crossings.

(a) All temporary and permanent crossings of waterbodies and wetlands shall be suitably culverted, bridged, or otherwise designed to withstand and to prevent the restriction of high flows, to maintain existing low flows, and so as not to obstruct the movement of aquatic life indigenous to the waterbody beyond the actual duration of construction.

(b) No open trench excavation in flowing waters shall be allowed unless the activity is screened pursuant to the Minor Impact Project procedures and conditioned to protect the aquatic environment.

(c) Temporary bridges, culverts, or cofferdams shall be used for equipment access across streams (note: areas of fill and/or cofferdams must be included in total waterway/wetlands impacts to determine applicability of this general permit).

(d) For projects that meet the definition of a Minimum Impact Project, unconfined in-stream construction work shall be conducted during the low flow period of July 15 - October 1 in any year. Projects that are conducted outside of that time period do not qualify for Minimum Impact Project procedures under this PGP and shall be screened pursuant to Minor Impact Project procedures, regardless of the waterway and wetland fill and/or impact area.

20. Discharge of Pollutants. All activities involving any discharge of pollutants into waters of the United States authorized under this general permit shall be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the Clean Water Act (33 U.S.C. 1251), and applicable state and local laws. If applicable water quality standards, limitations, etc., are revised or modified during the term of this permit, the authorized work shall be modified to conform with these standards within 6 months of the effective date of such revision or modification, or within a longer period of time deemed reasonable by the District Engineer in consultation with the Regional Administrator of the Environmental Protection Agency. **Unless otherwise notified by the New Hampshire Department of Environmental Services**, applicants may presume that state water quality standards are met with the issuance of the Section 401 Water Quality Certification for this PGP (Applicable only to Section 404 activity), provided all PGP conditions have been met.

21. Spawning Areas . Discharges into known: a) fish and shellfish spawning or nursery areas; or b) amphibian and waterfowl breeding areas, during spawning or breeding seasons shall be avoided. Impacts to these areas shall be minimized to the maximum extent practicable during all other times of the year.

22. Storage of Seasonal Structures. Coastal structures such as pier sections, floats, etc., that are removed from the waterway for a portion of the year shall be stored in an upland location, located above mean high water and not in a vegetated wetland.

23. Environmental Values. The permittee shall make every reasonable effort to carry out the construction or operation of the work authorized herein in a manner so as to maintain as much as is practicable, and to minimize any adverse impacts on, existing fish, and wildlife, and natural environmental values.

PROCEDURAL CONDITIONS:

24. Inspections. The permittee shall allow the District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary in order to ensure that the work is being performed in accordance with the terms and conditions of this permit. The District Engineer may also require post-construction engineering drawings for completed work, and post-dredging survey drawings for any dredging work.

25. Maintenance. The permittee shall maintain the work or structures authorized herein in good condition, including maintenance to ensure public safety. NOTE that this does not include maintenance of dredging projects.

26. Property Rights. This PGP does not convey any property rights, either in real estate or material, or any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of Federal, state, or local laws or regulations.

27. Modification, Suspension, and Revocation. This PGP may be either modified, suspended, or revoked in whole or in part pursuant to the policies and procedures of 33 CFR 325.7; any such action shall not be the basis for any claim for damages against the United States.

28. Restoration. The permittee, upon receipt of a notice of revocation of authorization under this PGP, shall restore the wetland or waterway to its former conditions without expense to the United States, and as directed by the Secretary of the Army or his authorized representative. If the permittee fails to comply with such a directive, the Secretary or his designee may restore the wetland or waterway to its former condition, by contract or otherwise, and recover the cost from the permittee.

29. Special Conditions. The Corps may impose other special conditions on a project authorized pursuant to this PGP that are determined necessary to minimize adverse environmental effects or based on any other factor of the

public interest. These may be based on concerns from a state or Federal resource agency. Failure to comply with all conditions of the authorization, including special conditions, will constitute a permit violation and may subject the permittee to criminal, civil, or administrative penalties or restoration.

30. False or Incomplete Information. If the Corps makes a determination regarding the eligibility of a project under this PGP, and subsequently discovers that it has relied on false, incomplete, or inaccurate information provided by the permittee, the permit shall not be valid and the U.S. government may institute legal proceedings.

31. Changed Conditions. If prior to construction, conditions at the permitted site change due to natural occurrences or man-made actions, the Corps may determine to suspend, modify or revoke the permit.

32. Abandonment. If the permittee decides to abandon the activity under this PGP, unless such abandonment is merely the transfer of property to a third party, he/she may be required to restore the area to the satisfaction of the District Engineer.

33. Enforcement Cases. This general permit does not apply to any existing or proposed activity in Corps jurisdiction associated with a Corps of Engineers or EPA enforcement action until such time as the enforcement action is resolved or the Corps determines that the activity may proceed independently without compromising the enforcement action.

DURATION OF AUTHORIZATION/GRANDFATHERING:

34. Duration of Authorization. The expiration date for individual projects authorized under this PGP coincides with that of the State authorization for that particular project.

This PGP will expire on June 2, 2007, however, activities authorized under this PGP which are under construction or are under contract to begin construction in reliance upon this authorization will remain authorized provided the activity is completed within twelve months of June 2, 2007, unless:

- a) the PGP is either modified or revoked; or
- b) discretionary authority has been exercised in accordance with 33 CFR 325.2(e)(2).

Activities completed under this PGP will continue to be authorized by the PGP after the expiration date.

35. Previously Authorized Activities.

a) Projects that have received written authorization from the Corps under the Nationwide permits or under the previous New Hampshire PGP prior to issuance of this PGP shall remain authorized as specified in each authorization.

b) Non-reporting nationwide permit activities or NH PGP minimum impact activities which have commenced, (i.e., are under construction or are under contract to commence) prior to the issuance date of this PGP, remain authorized provided the activity is completed within twelve months of the date of issuance of this PGP. These activities are still subject to discretionary authority on a case-by-case basis in accordance with Condition 4. The applicant must be able to document to the satisfaction of the Corps that the project was under construction or contract by the appropriate date.

c) Activities authorized pursuant to 33 CFR Part 330.3 (activities occurring before certain dates) are not affected by this PGP.

for Christine J. Sprey 5/30/02
DISTRICT ENGINEER DATE

Appendix A: Non-reporting Activities

* The placement of aids to navigation and regulatory markers which are approved by and installed in accordance with the requirements of the U.S. Coast Guard.

* Fish and wildlife harvesting devices and activities such as pound nets, crab traps, crab dredging, eel pots, lobster traps, duck blinds, clam and oyster digging, and small fish attraction devices such as open water fish concentrators (sea kites, etc.) not constituting a hazard to navigation. This authorizes shellfish seeding provided this activity does not occur in wetlands or sites that support submerged vegetation (including sites where submerged aquatic vegetation is determined to exist, but may not be present in a given year). This does not authorize artificial reefs or impoundments and semi-impoundments of waters of the United States for the culture or holding of motile species such as lobster, or the use of covered oyster trays or clam racks.

* Devices whose purpose is to measure and record scientific data such as staff gages, tide gages, water recording devices, water quality testing and improvement devices and similar structures. Small weirs and flumes constructed primarily to record water quantity and velocity are also authorized provided the discharge of fill is limited to 10 cubic yards and the structures do not restrict movement of aquatic species.

* Survey activities including core sampling, seismic exploratory operations, plugging of seismic shot holes, other exploratory-type bore holes and oil and gas test wells, soil survey and sampling, and historic resources surveys. Discharges and structures associated with the recovery of historic resources are not authorized. Drilling and the discharge of excavated material from test wells for oil and gas exploration are not authorized; Fill placed for roads, pads and other similar activities is not authorized, nor is any permanent structure.

* Structures, buoys, floats and other devices placed within anchorage or fleeting areas to facilitate moorage of vessels where such areas have been established for that purpose by the U.S. Coast Guard.

* Non-commercial, single-boat, mooring buoys not associated with any boating facility, and authorized by the local harbormaster, provided it is not located in a Federal Navigation Project.

* Temporary buoys, markers, small floating docks, and similar structures placed for recreational use during specific events such as water skiing competitions and boat races or seasonal use, provided that such structures are removed within 30 days after use has been discontinued. At Corps of Engineers reservoirs, the reservoir manager must approve each buoy or marker individually.

Contacts for the New Hampshire Programmatic General Permit:

U.S. Army Corps of Engineers

New England District, Regulatory Branch
696 Virginia Road
Concord, Massachusetts 01742-2751
(800) 343-4789 or (978) 318-8335
Fax # 978-318-8303

U.S. Environmental Protection Agency

Region 1
1 Congress Street, Suite 1100
Boston, Massachusetts 02114-2023
(617) 918-1589

National Park Service

National Park Service
North Atlantic Region
15 State Street
Boston, Massachusetts 02109
(617) 223-5191

Federal Endangered Species

U.S. Fish and Wildlife Service

70 Commercial Street
Suite 300
Concord, New Hampshire 02813
(603) 223-2541

National Marine Fisheries Service

Northeast Region
One Blackburn Drive
Gloucester, MA 01930
(978) 281-9102

State Endangered Species

NH Fish and Game Dept.

Nongame Endangered Species
Program
#2 Hazen Drive
Concord, NH 03302-0095
(603) 271-3623

Dept. of Environmental Services

New Hampshire Wetlands Bureau
6 Hazen Drive
Concord, NH 03302
(603) 271-2147
(603) 271-6588(fax)

Historic Resources**NH Historic Preservation Officer**

Dept. of Cultural Affairs
Div. of Historic Resources
PO Box 2043
19 Pillsbury Street
Concord, NH 03301
(603) 271-3483

Dept. of Resources & Econ. Dev.

Natural Heritage Inventory
172 Pembroke Rd.
PO Box 1856
Concord, NH 03302
(603) 271-3623

Natural Resources Conservation Service

Federal Building
2 Madbury Road
Durham, NH 03824-2043
(603) 868-7581

Link to related New Hampshire wetland rules (Adopted Rule 97-010):

<http://www.des.state.nh.us/wetlands/pdf/100-800.pdf>

MERRIMACK RIVER AND TRIBUTARIES

Second Brook

Nashua River

Chase Brook

Nesenkeag Brook

Horseshoe Pond - Naticook Brook

Souhegan River

Riddle Brook

Sawmill Brook

Watts Brook

Pointer Club Brook

Little Cohas Brook

Cohas Brook

Chandler Brook

Bowman Brook

Baker Brook

Ray Brook

Piscataquog River

South Branch River

Penacook Lake

Hayward Brook

Contoocook River

Cold Brook

Tannery Brook

Burnham Brook

Messer Brook

Millstone Brook

Dalton Brook

Brickyard Brook

Browns Brook

Suncook River

Bow Bog Brook

Bow Brook

Soucook River

Bryant Brook

Glines Brook

Stirrup Iron Brook

Allen Brook

Cross Brook

Punch Brook

Shaw Brook

Winnepesaukee River

Cate Brook

Giles Pond – Salmon Brook

Weeks Brook

Bennett Brook

Knox Brook

Needle Shop Brook

Pemigewasset River

Turkey River

Woods Brook

